

§§ 272.2102–272.2149

authorized for the following Federal final rules: (1) Removal of Legally Obsolete Rules (HSWA/non-HSWA) [60 FR 33912, 06/29/95]; (2) Imports and Exports of Hazardous Waste: Implementation of OECD Council Division (HSWA—Not delegable to States) [61 FR 16290, 04/12/96]; (3) Clarification of Standards for Hazard Waste Land Disposal Restriction Treatment Variances (HSWA) [62 FR 64504, 12/05/97]; and (4) Vacatur of Organobromide Production Waste Listings (HSWA) [65 FR 14472, 03/17/00]. Those Federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not Federally enforceable. In contrast, EPA will continue to enforce the Federal HSWA standards for which South Dakota is not authorized until the State receives specific authorization from EPA.

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 8 and the State of South Dakota, signed by the State of South Dakota Department of Natural Resources on June 6, 1996, and by the EPA Regional Administrator on June 25, 1996, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority*. “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of South Dakota on May 24, 1984, and revisions, supplements and addenda to that Statement dated January 14, 1991, September 11, 1992, September 25, 1992, April 1, 1993, September 24, 1993, August 23, 1994, December 29, 1994, September 5, 1995, October 23, 1997, October 27, 1997, October 28, 1997, November 5, 1999, June 26, 2000, June 18, 2002 and October 19, 2004, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description*. The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program

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under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[71 FR 11534, Mar. 8, 2006]

§§ 272.2102–272.2149 [Reserved]

Subpart RR—Tennessee

§§ 272.2150–272.2199 [Reserved]

Subpart SS—Texas

§ 272.2200 [Reserved]

§ 272.2201 Texas State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for the following elements as submitted to EPA in Texas’ Base program application for final authorization which was approved by EPA effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, October 18, 1999, November 15, 1999, September 11, 2000, June 14, 2005, December 29, 2008, July 13, 2009, May 6, 2011 (76 FR 12283), May 7, 2012 (77 FR 13200), and January 29, 2013.

(b) The State of Texas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations*.

(1) The Texas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1

CFR part 51. Copies of the Texas regulations that are incorporated by reference in this paragraph are available from West Group, 610 Opperman Drive, Eagan, 55123, Attention: Order Entry; Phone: 1-800-328-9352; Web site: <http://west.thomson.com>. You may inspect a copy at EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone number: (214) 665-8533, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled “EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program”, dated May 2012.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State’s implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010); Chapter 361, The Texas Solid Waste Disposal Act, sections 361.002, 361.016, 361.017, 361.018, 361.0215(b)(2) and (b)(3), 361.023, 361.024, 361.029, 361.032, 361.033, 361.035, 361.036, 361.037(a), 361.061, 361.063, 361.0635, 361.064, 361.0641, 361.066(b) and (c), 361.0666, 361.067, 361.068, 361.069, 361.078, 361.079, 361.0791, 361.080, 361.081, 361.082 (except 361.082(a) and (f)), 361.083, 361.833, 361.084, 361.085, 361.0861(c), 361.0871(b), 361.088, 361.0885, 361.089, 361.090, 361.095(b)–(f), 361.096, 361.097, 361.098, 361.099(a), 361.100, 361.101, 361.102 through 361.109, 361.113, 361.114, 361.116, 361.271 through 361.275, 361.278, 361.301, 361.321(a) and (b), 361.321(c) (except the phrase “Except as provided by Section 361.322(a)”), 361.321(d), 361.321(e) (except the phrase “Except as provided by Section 361.322(e)”), 361.451, 361.501 through 361.506, and 361.509(a) introductory paragraph, (a)(11), (b), (c) introductory paragraph, and (c)(2); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.0025(b) and (c), 371.024(a), (c), and (d), 371.026(a) and (b), and 371.028.

(ii) Texas Water Code (TWC), Texas Codes Annotated, as amended effective September 1, 2009: Chapter 5, sections 5.102 through 5.105, 5.112, 5.177, 5.351, 5.501 through 5.505, 5.509 through 5.512, 5.515, and 5.551 through 5.557; Chapter 7, sections 7.031, 7.032, 7.051(a), 7.052(a), 7.052(c) and (d), 7.053 through 7.062, 7.064 through 7.069, 7.075, 7.101, 7.102, 7.104, 7.105, 7.107, 7.110, 7.162, 7.163, 7.176, 7.187(a), 7.189, 7.190, 7.252(1), 7.351, 7.353; Chapter 26, sections 26.001(13), 26.011, 26.020 through 26.022, 26.039, and 26.341 through 26.367; and Chapter 27, sections 27.003, 27.017, 27.018 and 27.019.

(iii) Texas Government Code as amended effective September 1, 2009, section 311.027.

(iv) Texas Rules of Civil Procedure, as amended effective September 1, 2009, Rule 60.

(v) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1, 1994: Chapter 305, sections 305.91 through 305.93, 305.98, and 305.99.

(vi) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 281, sections 281.17(f); Chapter 305, sections 305.29(b) through (d), 305.94 and 305.95, 305.97, 305.100, 305.101 (except 305.101(c)), 305.102, 305.103, and 305.105.

(vii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009: Chapter 10; Chapter 39, sections 39.5(g) and (h), 39.11, 39.13 (except (10)), 39.103 (except (f) and (h)), 39.105, 39.107, 39.109, 39.403(b)(1), 39.405(f)(1), 39.411 (except (b)(4)(B), (b)(10), (b)(11), and (b)(13)), 39.413 (except (10)), 39.420, 39.503 (except the reference to 39.405(h) in (d) introductory paragraph and (g)), and 39.801 through 39.810; Chapter 50, sections 50.13, 50.19, 50.39, 50.113 (except (d)), 50.117(f), 50.119, 50.133, and 50.139; Chapter 55, sections 55.25 (a) and (b), 55.27 (except (b)), 55.152(a)(3), 55.152(b), 55.154, 55.156 (except (d) through (f)), 55.201 (except as applicable to contested case hearings), and 55.211 (except as applicable to contested case hearings); Chapter 70, section 70.10; Chapter 281, sections 281.1 (except the clause “except as provided by * * * Prioritization Process”), 281.2 introductory paragraph and (4), 281.3(a)

and (b), 281.5 (except the clause “Except as provided by * * * Discharge Permits”), the phrase “radioactive material”, and the phrase “subsurface area drip dispersal systems”), 281.17(d) (except the references to radioactive material licenses), 281.17(e) and (f), 281.18(a) (except for the sentence “For applications for radioactive * * * within 30 days.”), 281.19(a) (except the last sentence), 281.19(b) (except the phrase “Except as provided in subsection (c) of this section.”), 281.20, 281.21(a) (except the phrase “and the Texas Radiation Control Act * * * Chapter 401.”, the acronym “TRCA”, and the phrase “subsurface area drip dispersal systems”), 281.21(b), 281.21(c) (except the phrase “radioactive materials,” in 281.21(c)(2)), 281.21(d), 281.22(a) (except the phrase “For applications for radioactive * * * to deny the license.”), 281.22(b) (except the phrase “or an injection well,” in the first sentence and the phrase “For underground injection wells * * * the same facility or activity.”), 281.23(a), and 281.24; Chapter 305, sections, 305.29, 305.30, 305.64(d) and (f), 305.66(c), 305.66(e) (except for the last sentence), 305.66(f) through (l), 305.123 (except the phrases “and 401 * * * regulation” and “and 32”), 305.125(1) and (3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A) and (C), and (6), 305.401 (except the text “§ 55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment)” at (b), and 305.401(c)); and Chapter 335, sections 335.2(b), 335.43(b), 335.206, 335.391 through 335.393.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.131 through 361.140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(ii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2010, as amended, effective through December 31, 2009: Chapter 305, sections 305.53, 305.64(b)(4), and 305.69(b)(1)(A) (as it relates to the Application Fee); Chapter 335, sections 335.321 through 335.332, Appendices I and II, and 335.401 through 335.412.

(4) *Unauthorized State Amendments and Provisions.* (i) The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State’s authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at paragraph (c)(1)(i) of this section, EPA will enforce the State provisions that are actually authorized by EPA. The effective dates of the State’s authorized provisions are listed in the Table below. The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, May, 2012*. Copies of the document can be obtained from U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

State provision (December 31, 2009, except as indicated)	Effective date of authorized provision	Unauthorized State amendments	
		Texas register reference	Effective date
335.6(a)	7/29/92	18 TexReg 2799	5/12/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
		17 TexReg 8010	11/27/92
335.6(c) introductory paragraph	7/29/92	20 TexReg 2709	4/24/95
		20 TexReg 3722	5/30/95
		21 TexReg 1425	3/1/96
		21 TexReg 2400	3/6/96
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
		26 TexReg 9135	11/15/01
		18 TexReg 3814	6/28/93
335.6(g)	7/29/92		

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State provision (December 31, 2009, except as indicated)	Effective date of authorized provision	Unauthorized State amendments	
		Texas register reference	Effective date
335.10(b)(22) (December 31, 2001)	7/27/88	22 TexReg 12060	12/15/97
335.24(b) introductory paragraph	3/1/96	23 TexReg 10878	10/19/98
		17 TexReg 8010	11/27/92
335.24(c) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
		21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
335.45(b)	9/1/86	17 TexReg 5017	7/29/92
335.204(a)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(6)	5/28/86	16 TexReg 6065	11/7/91
335.204(c)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(d)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(e)(6)	5/28/86	16 TexReg 6065	11/7/91

(ii) Additionally Texas has partially or fully adopted, but is not authorized to implement, the Federal rules that are listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Texas is not authorized until the State receives specific authorization for

those requirements. The EPA will not enforce the non-HSWA Federal rules although they may be enforceable under State law. For those Federal rules that contain both HSWA and non-HSWA requirements, the EPA will enforce only the HSWA portions of the rules.

Federal requirement	Federal Register reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
Clarification of Standards for Hazardous Waste LDR Treatment Variances (SWA) (Checklist 162).	62 FR 64504	December 5, 1997.
Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions (HSWA) (Checklist 187).	64 FR 36365	June 8, 2000.
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (HSWA and Non-HSWA) (Checklist 200).	67 FR 48393	July 24, 2002.
Modification of the Hazardous Waste Manifest System (HSWA and Non-HSWA) (Checklist 207).	70 FR 10776	March 4, 2005.
Methods Innovation Rule and SW-846 Update IIIB (HSWA and Non-HSWA) (Checklist 208).	70 FR 35034	June 16, 2005.
	70 FR 34538	June 14, 2005.
	70 FR 44150	August 1, 2005.

(iii) Texas has chosen not to adopt, and is not authorized to implement, the following optional Federal rules:

Federal requirement	Federal Register reference	Publication date
NESHAPS Second Technical Correction, Vacatur (Non-HSWA) (Checklist Rule 188.1).	66 FR 24270	May 14, 2001.
Storage, Treatment, Transportation and Disposal of Mixed Waste (Non-HSWA) (Checklist 191).	66 FR 27218	May 16, 2001.
Inorganic Chemical Manufacturing Waste Identification and Listing (HSWA/ Non-HSWA) (Checklist Rule 195.1).	67 FR 17119	April 9, 2002.
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (HSWA) (Checklist 201).	67 FR 62618	October 7, 2002.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Non-HSWA) (Checklist 203).	68 FR 44659	July 30, 2003.
National Environmental Performance Track Program (Non-HSWA) (Checklist 204).	69 FR 21737	April 22, 2004.
	69 FR 62217	October 25, 2004.

Federal requirement	Federal Register reference	Publication date
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (Non-HSWA) (Checklist 205).	69 FR 22601	April 26, 2004.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region VI and the State of Texas, signed by the Executive Director of the Texas Commission on Environmental Quality (TCEQ) on December 20, 2011, and by the EPA Regional Administrator on February 17, 2012, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of Texas on May 22, 1984 and revisions, supplements, and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7, 1997, March 11, 1997, January 5, 1999, November 2, 1999, March 1, 2002, July 16, 2008, and December 6, 2011 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[77 FR 71349, Nov. 30, 2012]

§§ 272.2202–272.2249 [Reserved]

Subpart TT—Utah

§ 272.2251 Utah State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Utah has Final authorization for the following elements as submitted to EPA in Utah’s base program application for Final authorization which was approved by

EPA effective on October 24, 1984. Subsequent program revision applications were approved effective on March 7, 1989; July 22, 1991; July 14, 1992; April 13, 1993; December 13, 1994; July 21, 1997; and March 15, 1999.

(b) *State statutes and regulations.* (1) The Utah regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of the Utah regulations that are incorporated by reference in this paragraph are available from the Utah Department of Environmental Quality, 288 North 1460 West, Salt Lake City, Utah 84114–4880, Phone (801) 538–6776.

(i) The EPA Approved Utah Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated March 1999.

(ii) [Reserved]

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) Utah Code Annotated, Volume 3A, 1998 Replacement and 1999 Supplement, Title 19: Sections 19–1–306(2), 19–1–306(3), 19–6–102 introductory paragraph, 19–6–102(1) & (2), 19–6–102(6)–(9), 19–6–102(11), 19–6–102(13)–(21), 19–6–102.1, 19–6–103, 19–6–104(1) except (1)(j), 19–6–105(1) introductory paragraph, 19–6–105(1)(a)–(f), 19–6–105(1)(i) & (j), 19–6–105(2), 19–6–106, 19–6–107, 19–6–109, 19–6–111, 19–6–112, 19–6–113(1) through (4), 19–6–113(6), 19–6–114, 19–6–115, and 19–6–116.

(ii) Utah Code Annotated, Volume 6D, 1997 Replacement and 1999 Supplement, Title 63: Sections 63–2–103 through 63–2–105, 63–2–201 through 63–2–203 (except 63–2–203(10)), 63–2–204, 63–2–205, 63–2–301 through 63–2–308, 63–2–401 through 63–2–405, and 63–2–802.